

New ABLE legislation

H.B 2216

ABLE is federal legislation that would allow families and individuals to save for the disability-related expenses of a disabled individual in a federal tax-advantaged account. Like 529 education savings programs, contributions grow tax deferred and are tax exempt when used for “qualified disability expenses.

Eligibility

- Eligible individual is defined as being entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act, or has a “disability certification” filed with the Treasury Secretary and became disabled before age 26.
- The beneficiary must have a certification by Social Security or by the Secretary of the Treasury.
- Yearly eligibility certification required

Exclusion from means-tested federal programs.

- ABLE accounts are excluded from being counted for means-tested federal programs including Medicaid.
- For Supplemental Security Income programs: (1) distributions for housing expenses are not excluded; and (2) account values over \$100,000 are counted and could result in the suspension but not termination of benefits .

Account Owner.

- o The beneficiary is the account owner. The KS act allows for custodians or guardians.
- o There may be only one account per beneficiary.
- o The beneficiary can be changed to a disabled “member of the family” of the old beneficiary. But, if the new beneficiary is not eligible, then it is treated as a non-qualified withdrawal.

Contributions

- o Can be made by anyone
- o Are limited annually per beneficiary to the federal gift tax limitation (currently \$14,000).
- o Contributions will no longer be allowed when the account reaches \$350,000. (adjusted annually)

Tax free distributions for Qualified Expenses

Broadly defined as: Education, Housing, Transportation, Employment training and support, Assistive technology and personal support services, Health, Prevention and wellness, Financial management and administrative services, Legal fees, Expenses for oversight and monitoring, Funeral and burial expenses, and Other expenses approved by the Treasury Secretary.

Penalties

- There is a 10% federal tax penalty for distributions of earnings not used for qualified disability expenses.
- No penalty for distributions made after the death of the beneficiary.
- The penalty can be avoided if contributions are distributed along with their earnings before the federal tax filing deadline for the year in which the contributions were made.

Investments

- Options will be created by the administrator
- The beneficiary is allowed to change the investments twice in a calendar year

Controls

- If the beneficiary is a Kansas resident, the account must be opened in the Kansas plan or a plan administered by another state through a contract with the State Treasurer's Office
- Medicaid can make a claim for funds in the account upon the death of the beneficiary up to the amount of assistance that it has provided to the beneficiary